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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re DANIEL C., a Minor Coming Under  
the Juvenile Court Law.

B148525

(Super. Ct. No. GJ15434)

THE PEOPLE,

Petitioner and Respondent,

v.

DANIEL C., a Minor,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County.

Raymond D. Mireles, Judge. Affirmed.

Gerson Simon, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General of the State of California, Robert R. Anderson, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Lance E. Winters, Supervising Deputy Attorney General, and Michael C. Keller, Deputy Attorney General, for Plaintiff and Respondent.

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The trial court sustained a petition alleging that appellant Daniel C. committed two counts of robbery in violation of Penal Code section 211. The court found that appellant was a person described by Welfare and Institutions Code section 602, adjudged appellant to be a ward of the court, and placed appellant in a Camp Community Placement Program with a maximum confinement time of seven years and four months.

Appellant appeals from the orders sustaining the petition and adjudging appellant to be a ward of the court, contending that there is insufficient evidence to support the trial court's finding that appellant committed the robberies. We affirm the trial court's orders.

### Facts

At about 11:30 p.m. on June 30, 2000, Ignacio Martinez and Francisco Diaz were walking along some railroad tracks in Rosemead when they were approached by three "boys" with sticks. The young men demanded money, then began hitting Martinez and Diaz with the sticks. Martinez gave them his wallet. Diaz gave them his wallet, watch and bicycle.

Los Angeles County Sheriff's Deputies were dispatched to the area, and soon detained appellant. He was stopped by deputies on the railroad tracks a short distance away from the scene of the robberies. Martinez identified appellant as one of the robbers in a subsequent field show-up.

At trial, Martinez did not identify appellant as one of the robbers. On cross-examination, he stated that he "didn't identify very well" at the field show-up because it was nighttime.

At trial, appellant testified on his own behalf that he had no involvement in the robberies. He stated that at about 11:30 p.m. on June 30, he went out for a walk to drink some beer. Within minutes of leaving his house, he was detained by police. Appellant admitted that he subsequently lied to his probation officer about his consumption of alcohol.

## Discussion

Appellant contends that there is insufficient evidence to support the trial court's finding that he committed the robberies. We cannot agree.

In reviewing the sufficiency of the evidence, "courts apply the 'substantial evidence' test. Under this standard, the court 'must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence - that is, evidence which is reasonable, credible, and of solid value - such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.]" (*People v. Cuevas* (1995) 12 Cal.4th 252, 260-261.)

"Although we must ensure the evidence is reasonable, credible, and of solid value, nonetheless it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts on which that determination depends. [Citation.] Thus, if the verdict is supported by substantial evidence, we must accord due deference to the trier of fact and not substitute our evaluation of a witness's credibility for that of the fact finder." (*People v. Jones* (1990) 51 Cal.3d 294, 314.) Even if we would have made contrary findings or drawn different inferences, we cannot reverse the judgment if the circumstances reasonably justify the findings or inferences made by the trier of fact. (*People v. Ceja* (1993) 4 Cal.4th 1134, 1139; *People v. Perez* (1992) 2 Cal.4th 1117, 1126-1127.)

The same standards are applicable in reviewing juvenile convictions. (*In re Miguel L.* (1982) 32 Cal.3d 100, 115.)

Appellant contends that Martinez's out-of-court identification was inherently unreliable because it was made at a one person field show-up, there was no independent corroborating evidence to link appellant to the robberies, Martinez stated the he didn't do very well at identifying appellant because it was nighttime, and there was no evidence that intimidation had affected Martinez's trial testimony.

A one-person show-up is not inherently unfair. (*People v. Clark* (1992) 3 Cal.4th 41, 136.) Appellant does not identify any aspect of his show-up apart from its solitary nature which rendered it unduly suggestive. Indeed, Deputy Avola warned Martinez that

"the person that we are detaining might not be the person, so just because he's in our custody . . . doesn't mean he's involved in your crime."

There is no requirement that an out-of-court identification be supported by corroborating evidence. (*People v. Cuevas, supra*, 12 Cal.4th at pp. 272-274.) However, the fact that appellant was apprehended very close to the crime scene very shortly after the crime occurred is some corroboration.

We are not aware of any requirement that a failure to make an in-court identification be based on intimidation. As the trial court indicated, the lapse of three and a half months between the crime and the trial might very well account for Martinez's inability to identify appellant in court.

Martinez expressed no doubts at the field show-up about his identification. Appellant and the other robbers came close enough to Martinez and Diaz to hit them with sticks, giving Martinez an opportunity to observe appellant up close. Martinez's identification occurred very shortly after the robbery, while the robbers' faces were fresh in his mind. The trial court, who could observe Martinez's demeanor during his testimony, found the evidence of Martinez's positive identification at the time of the robbery to be more credible than his doubts some three and a half months after the robbery. Under these circumstances, we see no basis on which to disagree with the trial court's finding.

#### Disposition

The trial court's orders are affirmed.

ARMSTRONG, J.

We concur:

TURNER, P.J.

GRIGNON, J.